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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CAROLYN RAMSEY CATAN

Appeal 2007-4077
Application 09/823,563
Technology Center 2100

Decided: March 17, 2008

Before LANCE LEONARD BARRY, HOWARD B. BLANKENSHIP, and
JEAN R. HOMERE, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-3 and 5-17. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

Representative claim 16 reads as follows:

16. A method of identifying a resource from a machine-readable label (MRL) reader, said method comprising the steps of:

- scanning an MRL associated with a first object with an MRL reader associated with a second object;
- matching resources from a resource base based on a result of said step of scanning; and
- when a result of said step of scanning indicates a poor match, outputting to a user-interface, a message suggesting to a user to use a different one of said first and second objects.

The Examiner relies on the following references as evidence of unpatentability.

Gazdzinski	6,615,175 B1	Sep. 2, 2003
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Claims 1-3 and 5-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gazdzinski and “Official Notice.”

Claim 4 has been canceled.

In the rejection of claim 16 over Gazdzinski, the Examiner finds that Gazdzinski “does not explicitly teach a machine-readable label (MRL).” (Ans. 8.) We disagree.

Machine-readable labels include, *inter alia*, bar codes, smart cards, and radio-frequency identifier (RFID) tags. (Spec. 1: 5-11.) Gazdzinski

describes a “smart” elevator system that may contain an RFID interrogator/reader for reading RFID tags carried by passengers on the elevator. Gazdzinski Abstract.

The rejection also asserts “Official Notice” of “both the concept and advantages” of providing RFID technology, which is apparently considered to provide scanning from greater distances than bar code scanning. (Ans. 8.) As noted, however, Gazdzinski describes using RFID technology. The reference does not appear to discuss bar code scanning.

In any event, the rejection of claim 16 appears to rely on material in column 9 of the reference for the “matching resources” step, and refers to a scanning result indicating a “poor match” in columns 3, 4, and 9. (*See* Ans. 7-8.)

The material in Gazdzinski at columns 3 and 4 relates to data terminals in the smart elevator from which a user may download data to a personal electronic device (PED). In Gazdzinski, a user may download information to a PED (e.g., col. 11, l. 28 - col. 12, l. 22). The configuration of the data to be downloaded may be determined based on the RFID tag of the user (Fig. 15). Gazdzinski, col. 12, ll. 17-22.

The “matching” or search described in column 9 of the reference, however, is not related to scanning of an RFID tag. Gazdzinski describes the smart elevator as including a building directory sub-system by which, in response to voice recognition or input devices such as a keypad 116 and touch display 113, a listing of building occupants may be retrieved from a data file. Col. 8, l. 20 - col. 10, l. 21; Figs. 2, 4.

Perhaps the rejection of claim 16 proposes to combine the MRL scanning, as described in column 12 of the reference, with the search described in column 9 of the reference. Or perhaps the rejection is based on the search described in column 9, but holding that it would have been obvious to use the described search with RFID tag scanning.

In any case, we agree with Appellant that the prima facie obviousness of claim 16 has not been established on this record. The Examiner has not provided a persuasive explanation as to why the artisan would have used the building directory search sub-system described by Gazdzinski with any kind of MRL scanning. In a rejection on obviousness grounds, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006).

We do not find any reason in the reference itself to combine the column 9 search system with the RFID scanning. The RFID tags contemplated by Gazdzinski appear to be unique identifiers that can be used for building access and security. Gazdzinski col. 18, l. 14 - col. 19, l. 47. On the other hand, outputting a message to a user interface in the case of a “poor match,” which Gazdzinski may be considered to describe in column 9, does not result from scanning an MRL but from verbal or tactile user input, in helping the user arrive at the search target.

Each of the other independent claims (1, 6, 13, and 17) requires a combination of MRL scanning and searching that the rejection has not shown to be unpatentable under § 103.

The decision of the Examiner is reversed.

REVERSED

tdl/ce

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